

REMARKS

The Official Action dated August 10, 2006, has been carefully considered. Reconsideration is respectfully requested in light of the amendments and remarks presented herein. Claims 1, 4, 8, 14-15, 18, 22 and 27 are hereby amended. Claims 1-25 and 27 remain in the application for consideration. Reconsideration is respectfully requested.

Claims 1 and 15 have been amended to indicate that the vehicle has a first shell and second shell, such that when the support member is at a second position the support member is at least partially disposed outside the first shell and disposed at least partially inside the second shell. Support for the claim amendments can be found in the specification and drawings (for example, see specification at p. 14, lines 12-14 and Figs. 6A and 6B). It is believed that these changes do not involve any introduction of new matter, and thereby entry is believed to be in order and is respectfully requested.

In the Official Action, claims 1-4, 6-8, 11, 14-21 and 27 were rejected under 35 U.S.C. § 102(b) as being anticipated by Fukushima et al (U.S. Patent Publication No. 2001/0052712). The Examiner asserts that Fukushima et al disclose a vehicle having a support structure including a shell (floor panel 14) attached to the vehicle, the shell includes first and second end portions and a bottom portion extending at least partially between the first and second end portions (Fig. 6), the shell at least partially defining a storage chamber and including an opening providing access to the storage chamber; a support member (trunk case 1) internally contained within the vehicle (contained within the shell which is part of the vehicle) and being slidably positioned above the bottom portion and movable back and forth along a movement path from a first position (Fig. 1) in which the support member is substantially disposed within the shell and a second position (Fig. 2) in which the support member is at least partially disposed outside the shell, the support member including a lower interface surface for directly contacting an upper interface surface of the bottom portion of

the shell in sliding engagement as the support member is moved along the movement path; and a retention member (locking mechanism 26) fixedly attached to the shell interfacing a side section of the support member, and configured to permit sliding movement of the support member along the movement path. Moreover, the Examiner contends that Fukushima et al disclose a cooperative locking configuration (locking mechanism 26 and strikers 28) for substantially inhibiting sliding movement of the support member relative to the shell along the movement path when the support member is selectively positioned relative to the shell wherein a portion (safety lever/rib of frame 16/32a) of the cooperative locking configuration provided by the support is further configured for substantially inhibiting sliding movement of the support member relative to the shell along the movement path when the support member is at the second position.

However, as will be set forth in detail below, it is submitted that the vehicles defined by claims 1-4, 6-8, 11, 14-21 and 27 are not anticipated by the teachings of Fukushima et al. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

As defined by claim 1, from which claims 2-14 depend, a vehicle having a support structure for a spare tire includes a first shell, a second shell, a support member and a retention member. The first shell includes first and second end portions and a bottom portion extending at least partially between the first and second end portions. The first shell at least partially defines a spare tire storage chamber and includes an opening providing access to the storage chamber, adjacent to the first end portion. The second shell extends outwardly from the first shell. The support member is adapted to support a spare tire. The support member is slidably positioned above the bottom portion and movable back and forth along a movement path from a first position in which the support member is substantially disposed within the first shell and a second position in which the support member is at least partially disposed outside the first shell and disposed at least partially inside the second shell. The support

member includes a lower interface surface for directly contacting an upper interface surface of the bottom portion of the first shell in sliding engagement as the support member is moved along the movement path. The retention member is fixedly attached to the first shell. The retention member interfaces a side section of the support member. The retention member is configured to permit sliding movement of the support member along the movement path with respect to the first shell and is operative to limit movement of the support member with respect to the first shell in at least one direction substantially perpendicular to the movement path.

Independent claim 15, from which claims 16-25 and 27 depend, recites a vehicle having a support structure for a spare tire including a first shell, a second shell, a support member and a cooperative locking configuration. The first shell includes first and second end portions and a bottom portion extending at least partially between the first and second end portions. The first shell at least partially defines a spare tire storage chamber and includes an opening providing access to the storage chamber, adjacent to the first end portion. The second shell extends outwardly from the first shell. The support member is adapted to support a spare tire. The support member is slidably positioned above the bottom portion and movable back and forth along a movement path from a first position in which the support member is substantially disposed within the first shell and a second position in which the support member is at least partially disposed outside the first shell and disposed at least partially inside the second shell. The support member includes a lower interface surface for directly contacting an upper interface surface of the bottom portion of the first shell in sliding engagement as the support member is moved along the movement path. The support member and the first shell have a cooperative locking configuration for substantially inhibiting sliding movement of the support member relative to the first shell along the movement path when the support member is at the first position. A portion of the cooperative locking configuration

provided by the support member is further configured for substantially inhibiting sliding movement of the support member relative to the first shell along the movement path when the support member is at the second position.

Fukushima et al disclose a rear luggage compartment structure for a vehicle body (abstract). Particularly, Fukushima et al teach that the compartment includes a trunk case which, when stored, can be locked by a keyless locking mechanism to prevent the trunk case from sliding and that, when in the stored position, the back portion of the trunk case is biased by biasing members (see Figs. 3, 6, 8 and 9).

Independent claims 1 and 15 have been amended to recite that the vehicles include a first shell and a second shell, such that when the support member is at a second position the support member is at least partially disposed outside the first shell and disposed at least partially inside the second shell.

Rejection for anticipation or lack of novelty requires, as the first step in the query, that all elements of the claimed invention be described in single reference. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989), *cert. denied*, 493 U.S.P.Q.853 (1989). With respect to independent claim 1, Applicants are unable to find any teaching or disclosure by Fukushima et al of a vehicle having a first shell and a second shell, such that when the support member is at a second position the support member is at least partially disposed outside the first shell and disposed at least partially inside the second shell. Fukushima et al teach accessing a trunk case for the storage of luggage from a location outside of the rear of the vehicle such that the trunk case is not disposed inside of a shell (or any other structure) when accessed (see Figs. 1 and 2 of Fukushima et al). However, the present inventive vehicles have a support member capable of moving between a first position and a second position where the support member when at the second position is partially disposed outside of the first shell and is disposed inside the second shell. As clearly shown in

Fig. 2 of Fukushima et al, the trunk case (1) is not disposed within the vehicle (or any structure, such as a shell) when the case is in the extended position. As such, the vehicles as recited in independent claims 1 and 15, and those claims depending from them, are not taught or disclosed by Fukushima et al. It is therefore submitted, that the presently claimed vehicles are not anticipated by Fukushima et al, whereby the rejection under 35 U.S.C. §102 has been overcome. Reconsideration is respectfully requested.

In the Official Action, claims 12-13 and 22-25 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fukushima et al II (U.S. Patent No. 6,474,715) in view of Kennedy (U.S. Patent No. 4,676,415). Claims 12-13 and 22-25 depend from independent claims 1 and 15 respectively.

However, as will be set forth in detail below, it is submitted that the vehicles as defined by claims 12-13 and 22-25 are nonobvious and patentably distinguishable over Fukushima et al II in view of Kennedy. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

Kennedy generally discloses a combined spare tire support and rear step bumper assembly (abstract). Kennedy also teaches locking bolts inserted through the bumper of the vehicle to lock the spare tire support, such that the tire support does not slide (see Figs. 2 and 6).

As noted above, Fukushima et al (the published application for Fukushima et al II) does not teach a vehicle having a first shell and a second shell, such that when the support member is at a second position the support member is at least partially disposed outside the first shell and disposed at least partially inside the second shell. Fukushima et al II does not rectify this deficiency. The failures of Fukushima et al II are also not remedied by any arguable combination with Kennedy. Rather, Kennedy teaches extending a spare tire support from a stored position underneath the truck bed to an extended position where the spare tire

support is exposed outside of the rear end of the vehicle (see Fig. 2). Again, there is no teaching of having a support member when at a second position at least partially disposed outside a first shell and disposed at least partially inside a second shell. The tire support of Kennedy is not disposed within a shell (or any other structure) when the tire support is in the extended position. In view of the failure of Fukushima et al II and Kennedy to teach or suggest having the support member being at least partially disposed outside the first shell and disposed at least partially inside the second shell when the support member is at a second position, as recited in independent claims 1 and 15, Fukushima et al II and Kennedy do not support a rejection of claims 12-13 and 22-25 under 35 U.S.C. § 103. Applicants therefore submit that the 35 U.S.C. § 103 rejection of the presently claimed vehicles of claims 12-13 and 22-25 over Fukushima et al II in view of Kennedy has been overcome. Reconsideration is respectfully requested.

Claims 9 and 10 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Fukushima et al II in view of Pilliod (U.S. Patent No. 5,484,198). Claims 9 and 10 depend from independent claim 1.

However, as will be set forth in detail below, it is submitted that the vehicles as defined by claims 9 and 10 are nonobvious and patentably distinguishable over Fukushima et al II in view of Pilliod. Accordingly, this rejection is traversed and reconsideration is respectfully requested.

Pilliod generally discloses a drawer guide assembly for drawers (col. 1, lines 6-7).

As noted above, Fukushima et al (the published application for Fukushima et al II) and Fukushima et al II do not teach a vehicle having a first shell and a second shell, such that when the support member is at a second position the support member is at least partially disposed outside the first shell and disposed at least partially inside the second shell. The failures of Fukushima et al II are also not remedied by any arguable combination with Pilliod.

Rather, Pilliod simply teaches a drawer guide assembly for drawers associated with furniture. Pilliod is not associated with any vehicles and there is no teaching or suggestion of a support member when at a second position at least partially disposed outside a first shell and disposed at least partially inside a second shell. In view of the failure of Fukushima et al II and Pilliod to teach or suggest a support member at least partially disposed outside a first shell and disposed at least partially inside a second shell when at a second position, as recited in independent claim 1, Fukushima et al II and Pilliod do not support a rejection of claims 9 and 10 under 35 U.S.C. § 103. Applicants therefore submit that the 35 U.S.C. § 103 rejection of the vehicles of claims 9 and 10 over Fukushima et al II in view of Pilliod has been overcome. Reconsideration is respectfully requested.

It is believed that the above remarks provide a complete response to the rejections under 35 U.S.C. §§ 102 and 103, and as such, place the present application having claims 1-25 and 27 in condition for allowance. Reconsideration and an early allowance are requested.

Respectfully submitted,

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